

\$32.00

Taylor, Morell & Gitomer

Suite 210
919 18th St., N.W.
Washington, DC 20006
(202) 466-6530/FAX (202) 466-6528

April 20, 1993

Suite 230
310 Golden Shore
Long Beach, CA 90802
(310) 436-2519/FAX (310) 436-5393

RECORDATION NO. 17977 FILED 1425

Direct Dial: (202) 466-6532

APR 20 1993 3:35 PM

3-110A041

INTERSTATE COMMERCE COMMISSION

Honorable Sidney L. Strickland
Secretary
Interstate Commerce Commission
Washington, DC 20423

RECORDATION NO. 17977-C FILED 1425

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INTERSTATE COMMERCE COMMISSION

Dear Secretary Strickland:

I have enclosed the original and four certified copies of two documents described below, to be recorded pursuant to 49 U.S.C. § 11303.

The first document is a Security Agreement, a secondary document, made April 20, 1993, and the second document is an Assignment of Lease, a secondary document, dated April 20, 1993. The primary document to which these are connected is recorded under Recordation No. 17977. We request that these documents be recorded under Recordation Nos. 17977-C and 17977-D.

The names and addresses of the parties to the Security Agreement are as follows:

Debtors:

American Finance Group
Exchange Place
Boston, MA 02109

U.S. Trust Company of California, N.A., as Owner Trustee
555 Flower Street
Los Angeles, CA 90071

Lender:

National Westminster Bank USA
175 Water Street
New York, NY 10038

The names and addresses of the parties to the Assignment of Lease are as follows:

C. D. [Signature]

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NOTICE OF RECORDATION

Honorable Sidney L. Strickland, Jr.
April 20, 1993
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Assignor:

U.S. Trust Company of California, N.A., as Owner Trustee
555 Flower Street
Los Angeles, CA 90071

Assignee:

National Westminster Bank USA
175 Water Street
New York, NY 10038

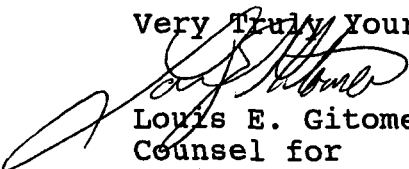
A description of the equipment covered by the documents consists of 20 SD45-2 diesel electric locomotives numbered SP 7400, 9194, 9245, 9254, 9294, 9273, 9300, 9308, 9328, 9337, 9345, 9359, 9362, 9373, 9385, 9392, 9395, 9400, and 9401.

A fee of \$32.00 is enclosed. Please return the originals and three of the certified copies to:

Louis E. Gitomer
Taylor, Morell & Gitomer
Suite 210
919 18th Street, N.W.
Washington, DC 20006

A short summary of the documents to appear in the index follows: (1) a Security Agreement, made April 20, 1993 among American Finance Group, Exchange Place, Boston, MA 02109, U.S. Trust Company of California, N.A., as Owner Trustee, 555 Flower Street, Los Angeles, CA 90071, and National Westminster Bank USA, 175 Water Street, New York, NY 10038; and (2) an Assignment of Lease made by U.S. Trust Company of California, N.A., as Owner Trustee, 555 Flower Street, Los Angeles, CA 90071, in favor of National Westminster Bank USA, 175 Water Street, New York, NY 10038; both documents covering 20 SD45-2 diesel electric locomotives numbered SP 7400, 9194, 9245, 9254, 9294, 9273, 9300, 9308, 9328, 9337, 9345, 9359, 9362, 9373, 9385, 9392, 9395, 9400, and 9401.

Very Truly Yours,



Louis E. Gitomer
Counsel for
National Westminster Bank USA

APR 20 1993 8:38 PM

ASSIGNMENT OF LEASE

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF LEASE dated April 20, 1993 made by U.S. TRUST COMPANY OF CALIFORNIA, N.A., a national banking association ("U.S. Trust"), with an office at 555 South Flower Street, Los Angeles, California 90071, in its individual capacity only as expressly stated herein and otherwise solely as Owner Trustee under the Trust Agreement (the "Trust Agreement") dated as of March 31, 1993 among AMERICAN FINANCE GROUP ("AFG") and AFG INVESTMENT TRUST C, a Delaware business trust ("AFGITC"), as Owner Participants, and U.S. Trust, as Owner Trustee (in such capacity, the "Owner Trustee"), in favor of NATIONAL WESTMINSTER BANK USA, a national banking association, with an office at 175 Water Street, New York, New York 10038 (hereinafter referred to as the "Assignee").

W I T N E S S E T H:

WHEREAS, AFG has entered into a certain Loan Agreement dated as of July 31, 1992 (hereinafter, as it may from time to time be amended or supplemented, referred to as the "Loan Agreement") with the Assignee pursuant to which the Assignee has agreed to make loans to AFG in the maximum aggregate principal amount of Fifteen Million (\$15,000,000) Dollars, upon and subject to the terms and conditions of the Loan Agreement;

WHEREAS, AFG has requested that the Bank make a Loan to it under the Loan Agreement in the amount of \$5,200,000 (the "Railcar Loan"), the proceeds of which are being contributed to the Owner Trustee to enable the Owner Trustee to acquire certain Rebuilt Diesel Electric Locomotives (the "Equipment") and lease the Equipment to Southern Pacific Transportation Company (the "Lessee") pursuant to Lease Supplements Nos. A-2, A-3 and A-4 (the "Lease Supplements") to that certain Equipment Lease (the "Equipment Lease") dated as of March 31, 1993 by and between the Owner Trustee and the Lessee; and

WHEREAS, in consideration of the Railcar Loan to AFG and the contribution thereof to the Owner Trustee, concurrently herewith the Owner Trustee is entering into a certain Guaranty of even date herewith (the "Guaranty") pursuant to which the Owner Trustee has guaranteed payment and performance of the Railcar Loan and the other Obligations and AFG, the Owner Trustee and the Assignee are entering into a Security Agreement of even date herewith (the "Security Agreement") pursuant to which, among other things, the Owner Trustee is granting to the Assignee a lien on the Equipment; and

WHEREAS, it is a condition precedent to the obligation of the Bank to make the Railcar Loan that the Owner Trustee shall execute and deliver this Assignment of Lease;

NOW, THEREFORE, in confirmation of and in addition to the terms and conditions of the Security Agreement dated of even date herewith among the Owner Trustee, AFG and the Assignee (the "Security Agreement"), the Owner Trustee, in consideration of One Dollar (\$1.00) lawful money of the United States of America and other good and valuable consideration, the receipt of which is hereby acknowledged, by this instrument does sell, assign, transfer and set over, unto the Assignee, and unto each of the Assignee's successors and assigns, to its and to its successors' and assigns' own proper use and benefits, all the right, title and interest of the Owner Trustee under, in and to the Lease Supplements and the Equipment Lease to the extent, and only to the extent, related to the Lease Supplements, including, without limitation, any Appendices, riders, addenda and supplements, as any such documents may from time to time be amended or supplemented, (the foregoing are hereinafter collectively referred to as the "Lease") and including, without limitation, the following (capitalized terms which are not defined in the Assignment of Lease shall have the meaning given thereto in the Security Agreement):

(a) all rental payments and other moneys, including all insurance payments and claims for losses, due and to become due to the Owner Trustee under, and all claims for damages arising out of the breach of, the Lease;

(b) the rights of the Owner Trustee to terminate the Lease;

(c) the rights of the Owner Trustee to perform thereunder;

(d) the rights of the Owner Trustee to compel performance of the terms thereof;

(e) any guarantee of the Lease and any rights of Owner Trustee in respect of any subleases permitted under the Lease; and

(f) all proceeds of the foregoing.

This Assignment is granted and delivered as security for the prompt and full payment and performance, as and when due and payable, of all of the Obligations. All rights granted to the Assignee under or in connection with any other agreements or other documents executed and delivered hereunder or in connection with the Loan Agreement are in addition to all rights granted to the Assignee hereunder. Notwithstanding anything in the foregoing to the contrary, the Assignee shall have no recourse to any Collateral owned by the Trust to the extent that such Collateral shall secure Obligations of any Fund except to the extent that a Default or Event of Default shall have occurred with respect to any of the Obligations of such Fund.

The Owner Trustee does hereby agree as follows:

1. The Owner Trustee shall remain liable under the Lease to perform all the obligations to be performed by it thereunder, all in accordance with and pursuant to the terms and provisions of the Lease, and the Assignee shall have no obligation or liability under the Lease by reason of or arising out of this Assignment, nor shall the Assignee be required or obligated in any manner to perform or fulfill any of the obligations of the Owner Trustee under or pursuant to the Lease, or to make any payment, or to make any inquiry as to the nature or the amounts which may have been assigned to it or to which it may be entitled at any time or times.

2. The obligations of the Owner Trustee under the Lease may be performed by the Assignee or its nominee, but only at the option of the Assignee, without releasing the Owner Trustee therefrom and without providing for or resulting in any assumption of liability thereunder.

3. The Owner Trustee does hereby constitute the Assignee the Owner Trustee's true and lawful attorney, irrevocably, with full power (in the name of the Owner Trustee or otherwise) to ask, require, demand, receive, compound and give acquittance for any and all moneys and claims for moneys due and to become due under or arising out of the Lease or any guarantee thereof or sublease permitted thereunder, to endorse any checks or other instruments or orders in connection therewith and to file any claims or take any action or institute any proceedings which the Assignee may deem to be necessary or advisable.

4. The Owner Trustee agrees that at any time and from time to time, upon the written request of the Assignee and at the expense of AFG, it will promptly and duly execute and deliver any and all such further instruments and documents and take such further action as the Assignee may reasonably deem desirable in obtaining the full benefits of this Assignment and of the rights and powers herein granted, including, without limitation:

(a) the filing or recording of this Assignment (or any amendment or supplement thereto) with the United States Interstate Commerce Commission, or a financing or continuation statement or statements with respect hereto or thereto in accordance with the laws of any applicable jurisdiction, and the Owner Trustee hereby authorizes the Assignee to effect any such filing or recording as aforesaid (including the filing of any such financing statements or amendments thereto without the signature of the Owner Trustee), and the Assignee's costs and expenses with respect thereto shall be payable by AFG on demand; and

(b) the taking of such further action as the Assignee may deem desirable to protect fully the Assignee's interest hereunder in accordance with the Uniform Commercial Code or any other applicable law.

5. In any suit, proceeding or action brought by the Assignee under the Lease, any guarantee thereof or sublease permitted thereunder, for any installment of, or interest on, any rental or other sum owing thereunder, or to enforce any provisions of the Leases, any guarantee thereof or sublease permitted thereunder, the AFG and the Owner Trustee, jointly and severally, will save, indemnify and keep the Assignee harmless from and against all expense, loss or damage suffered by reason of any defense, setoff, counterclaim, recoupment or reduction of liability whatsoever of any lessee under the Lease, or any guarantor or sublessee thereunder or its successors, arising out of a breach by the Owner Trustee of any obligation under the Lease or in respect of the Equipment or any sublease permitted thereunder or arising out of any other agreement, indebtedness or liability at any time owing to or in favor of the Lessee or any such guarantor or sublessee or its successors from the Owner Trustee, and all such obligations of AFG and the Owner Trustee shall be and remain enforceable against the Owner Trustee or any party or parties in whom any of the rights of the Owner Trustee under the Lease shall vest by reason of the successive assignments or transfers thereof.

6. (a) U.S. Trust, in its individual capacity and as Owner Trustee, hereby represents and warrants that it is the sole owner of the Lease, free and clear of any liens, claims or encumbrances (the "Liens") which result from claims against U.S. Trust in its individual capacity, and U.S. Trust has not by affirmative act, either in its individual capacity or as Owner Trustee, conveyed any interest in the Lease to any Person or subjected the Lease to any Lien except pursuant to the Security Documents. U.S. Trust shall, at its expense, promptly take such action as may be necessary to duly discharge any Liens on the Lease which result from claims against the Owner Trustee in its individual capacity or which arise from actions of the Owner Trustee other than actions taken in accordance with instructions from the Owner Participants pursuant to the Trust Agreement. Without limiting the foregoing, there is no financing statement or other filed or recorded instrument signed by the Owner Trustee on file in any public office covering any of the Collateral, except for the financing statements or other instruments filed or to be filed in favor of the Bank pursuant to the Security Documents. The Lease and any guarantee thereof is a valid obligation of the parties thereto, in full force and effect and enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency and similar laws affecting the enforcement of creditors' rights generally and to general principles of equity.

(b) Except as otherwise specifically permitted by the Loan Agreement, the Owner Trustee covenants that it will not take any action, the taking of which could result in an alteration or impairment of the Lease or of this Assignment or of any of the rights created by the Lease or any guarantee thereof or this Assignment. The Owner Trustee further represents and warrants that it has not assigned or pledged, and covenants that, so long as this Assignment shall remain effect, it will not, except as specifically permitted by the Loan Agreement, assign or pledge, any of its right, title or interest under, in or to any Lease or any guarantee thereof to anyone other than the Assignee, nor shall the Owner Trustee deliver possession of the Lease to any person except as provided in the Loan Agreement or the Loan Documents.

7. The Assignee hereby agrees that upon the payment in full of the Railcar Loan in accordance with the Loan Agreement, including all interest accrued thereon and other amounts owed to the Assignee in connection therewith, and provided that there is no existing Default or Event of Default (or, with respect to release of Collateral owned by a Fund, there is no existing Default or Event of Default with respect to any Loan to such Fund), the Assignee's security interest solely in the items of Collateral which shall secure such Loan shall be deemed terminated and released, and that, upon the written request of and at the expense of AFG, the Assignee shall, within a reasonable period of time, return to such Owner Trustee the Lease Supplements and other original lease documentation in its possession relating to such Collateral and shall execute and deliver to such Owner Trustee, solely with respect to such items of Collateral, such UCC amendments and other releases, terminations or reassignments as shall be reasonably requested by the Owner Trustee to effectuate or confirm such release of the Assignee's security interest in such items of Collateral.

8. It is expressly understood and agreed that, except for the provisions of Sections 4 and 6(a), which shall be binding upon U.S. Trust individually and in its capacity as Owner Trustee, all agreements, representations, warranties and undertakings of the Owner Trustee in this Assignment shall be binding upon U.S. Trust only in its capacity as Owner Trustee under the Trust Agreement and U.S. Trust not be personally liable for or on account of, nor shall the Bank have any recourse against U.S. Trust or its assets with respect to, any statements, representations, warranties, covenants or obligations stated to be those of the Owner Trustee hereunder except that U.S. Trust (or any successor Owner Trustee) shall be personally liable for its gross negligence or willful misconduct.

9. This Assignment shall be binding upon the Owner Trustee and its successors, and shall inure to the benefit of the Assignee. The Owner Trustee may not assign or delegate any of its rights or obligations hereunder or, except as permitted by the Loan Agreement, under the Lease without the prior written consent of the

Assignee and any such assignment in the absence of such consent shall be null and void. This Assignment may be executed in any number of counterparts with the same effect as if the signatures thereto and hereto were upon the same instrument.

[Remainder of page intentionally left blank]

10. This Assignment shall be governed by and construed and conformed in accordance with the laws of the State of New York applicable to contracts made and wholly performed in that state.

IN WITNESS WHEREOF, the Owner Trustee has caused this Assignment to be duly executed on the date first above written.

U.S. TRUST COMPANY OF CALIFORNIA, N.A.,
in its individual capacity, only as
expressly set forth herein, and otherwise
solely as Owner Trustee under the Trust
Agreement

By: _____

The undersigned
hereby acknowledges and covenants and
agrees to the provisions of
of the Assignment of Lease to the extent
applicable to it, including that it
agrees to pay the cost of any items
to be at the expense of the undersigned

AMERICAN FINANCE GROUP

By: Katherine S. Delano
Vice President Finance Title

IN WITNESS WHEREOF, the Owner Trustee has caused this Assignment to be duly executed on the date first above written.

By: i H
Authorized Signatory Title

AMERICAN FINANCE GROUP

7

COMMONWEALTH OF MASSACHUSETTS)

) 88. :

COUNTY OF SUFFOLK)

On the 19th day of April, 1993, before me personally came

Katherine S. Delano, to me known, who, being by me duly sworn, did

depose and say: that ~~he~~/she is the Vice President Finance of AMERICAN

FINANCE GROUP, a Massachusetts general partnership described in and

which executed the foregoing instrument; and that ~~he~~/she signed

~~XXXX~~/her name thereto by order of the Executive Committee of said

partnership.

Charles A. Bell

Notary Public

May Commission Expires 11/26/93

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

On the 19th day of APRIL, 1993, before me personally came LOUIS P. YOUNG, to me known, who, being by me duly sworn, did depose and say: that he/she is an AUTHORIZED SIGNATORY of U.S. TRUST COMPANY OF CALIFORNIA, N.A., a national banking association described in and who executed the foregoing instrument as Owner Trustee; and that he/she signed his/her name thereto by order of the Board of Directors of said corporation.




Notary Public

ELLEN WARREN
Notary Public, State of New York
No. 31-4647374
Qualified in New York County
Commission Expires July 31, 1993

CERTIFICATION

I, LOUIS E. GITOMER, have compared this copy of the Assignment of Lease dated April 20, 1993, and found the copy to be complete and identical in all respects to the original document. I declare under penalty of perjury that the foregoing is true and correct.



Louis E. Gitomer
April 20, 1993